

## **ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS 1997-98**

### **ACTIVITIES - BACKGROUND MEMORANDUM**

The Advisory Commission on Intergovernmental Relations (ACIR) occupies a unique status among committees with legislative membership in North Dakota. The ACIR differs from usual Legislative Council interim committees in its membership, its permanent status, and its statutory authority to determine its own study priorities. The powers and duties of the ACIR are provided in North Dakota Century Code (NDCC) Section 54-35.2-02, which provides:

The advisory commission on intergovernmental relations shall:

1. Serve as a forum for the discussion of resolution of intergovernmental problems.
2. Engage in activities and studies relating to the following subjects:
  - a. Local governmental structure.
  - b. Fiscal and other powers and functions of local governments.
  - c. Relationships between and among local governments and the state or any other government.
  - d. Allocation of state and local resources.
  - e. Interstate issues involving local governments, including cooperation with appropriate authorities of other states.
  - f. Statutory changes required to implement commission recommendations.
3. Present reports and recommended legislative bills to the legislative council for consideration in the same manner as interim legislative council committees.
4. Prepare model ordinances or resolutions for consideration by officials of political subdivisions.

Under this broad statutory authority, the ACIR is free to establish its own study agenda or to accept suggestions from groups or individuals for study. The Legislative Council has requested that the ACIR study the feasibility and desirability of restructuring county government as described by 1997 Senate Concurrent Resolution No. 4014.

Because the ACIR may establish its own study priorities, the ACIR should be aware of studies being conducted by Legislative Council interim committees. Several studies given priority by the Legislative

Council for the 1997-98 interim may relate to topics of interest to the ACIR. The following are among the studies given priority by the Legislative Council, listed with the Legislative Council interim committee to which the study was assigned:

1. Section 27 of Senate Bill No. 2004 directs a study of emergency medical services (Insurance and Health Care Committee).
2. Section 12 of Senate Bill No. 2019 directs a study of economic development functions in the state (Commerce and Agriculture Committee).
3. Section 4 of Senate Bill No. 2338 directs a study of the financing of elementary and secondary schools and the availability of state support for school construction (Education Finance Committee).
4. House Concurrent Resolution No. 3001 directs a study of the feasibility and desirability of funding the office of the clerk of district court through the unified judicial system (Judiciary Committee).
5. House Concurrent Resolution No. 3030 directs a study of the development of a strategic planning process for the future of public health in this state (Insurance and Health Care Committee).
6. House Concurrent Resolution No. 3032 directs a study of the responsibilities of county social services as they are distinguished from the responsibilities of regional human service centers and the Department of Human Services when providing services to children and their families and persons with disabilities, including the elderly (Budget Committee on Human Services).
7. House Concurrent Resolution No. 3033 directs a study of the effects of managed health care on the future viability of the health care delivery system in rural North Dakota (Insurance and Health Care Committee).
8. House Concurrent Resolution No. 3037 directs a study of the feasibility and desirability of providing property tax relief through alternative state and local revenue sources (Taxation Committee).
9. House Concurrent Resolution No. 3042 directs a study of the Department of Human Services, including the block grant method of appropriating funds to regional human service

- centers (Budget Committee on Human Services).
10. House Concurrent Resolution No. 3043 directs a study of the feasibility and desirability of implementing hail suppression programs for the reduction of property damage in urban and rural areas and funding the programs through property and casualty line insurance premium taxes (Insurance and Health Care Committee).
  11. House Concurrent Resolution No. 3044 directs a study of the impact of tax-exempt property on school districts (Taxation Committee).
  12. House Concurrent Resolution No. 3046 directs a study of the availability of affordable housing for middle income households, for the elderly, and in rural areas of the state (Commerce and Agriculture Committee).
  13. House Concurrent Resolution No. 3052 directs a study of the property tax exemption for charitable organizations (Taxation Committee).
  14. Senate Concurrent Resolution No. 4019 directs a study of the adequacy of transportation funding in this state (Budget Committee on Government Finance).
  15. Senate Concurrent Resolution No. 4024 directs a study of the development of an electronic mail and records management policy for governmental entities (Information Technology Committee).
  16. Senate Concurrent Resolution No. 4041 directs a study of the establishment of watershed districts to manage water based on watershed boundaries (Garrison Diversion Overview Committee).
  17. Senate Concurrent Resolution No. 4045 directs a study of state funding of the office of clerk of district court, the issues and problems associated with the continued implementation of court unification, and the effective provision of judicial services to the citizens of this state (Judiciary Committee).
  18. Senate Concurrent Resolution No. 4047 directs a study of the short-term and long-term impact of federal education legislation and other direct and indirect mandates from whatever sources on the educational goals and fiscal well-being of school districts (Education Finance Committee).
  19. Senate Concurrent Resolution No. 4050 directs a study of taxation and regulatory incentives for the lignite industry in order to improve its competitive position in the energy marketplace (Taxation Committee).
  20. Senate Concurrent Resolution No. 4051 directs a study of the desirability of requiring that a core curriculum be taught from kindergarten through grade 12; and if determined to

be desirable, develop a core curriculum or endorse an existing core curriculum for delivery to each schoolchild, regardless of where the child resides; and determine the feasibility and desirability of requiring the state to assume all costs of delivering that core curriculum to each schoolchild (Education Services Committee).

## **LOCAL GOVERNMENT EFFICIENCY PLANNING GRANTS**

The 1991 Legislative Assembly enacted NDCC Section 54-35.2-02.1, which provided for administration by the ACIR of local government efficiency planning grants. The 1991 Legislative Assembly also appropriated \$250,000 for the grants. During the 1991-92 interim, the ACIR spent the majority of its time developing guidelines and procedures, reviewing grant requests, and monitoring grant projects.

During the 1991-92 interim, the ACIR approved grant awards for 15 grant projects in the amount of \$198,558.34, leaving \$51,441.66 unexpended from the \$250,000 appropriated for grants during the 1991-93 biennium.

The 1993 Legislative Assembly provided an appropriation of \$51,400 to the ACIR for distribution of local government efficiency planning grants. That amount was selected because it was approximately equal to the unexpended amount that had been appropriated by the 1991 Legislative Assembly.

During the 1993-94 interim, the ACIR received final reports from grant recipients from the previous interim and returned \$1,466.14 in unexpended grant funds to the state from grant recipients who had completed their grant projects. The ACIR also authorized two grants of \$24,999 each to the North Dakota Association of Counties and the North Dakota League of Cities.

During the 1995-96 interim, the ACIR received reports from the North Dakota Association of Counties and the North Dakota League of Cities regarding the grants and requested those entities to file final reports with the ACIR by February 1, 1997. The 1995 and 1997 Legislative Assemblies did not appropriate any funds for the continuation of the local government efficiency planning grant program.

## **RESTRUCTURING COUNTY GOVERNMENT STUDY**

The Legislative Council referred to the ACIR Senate Concurrent Resolution No. 4014 (1997), which directs a study of the feasibility and desirability of restructuring county government. The study is to include an examination of examples of consolidation of services to determine the cost-effectiveness and transferability of those consolidations and an

examination of methods through which the state may be able to provide affordable technical assistance to counties choosing to consolidate, merge, or share services and a review of the effect of 1993 Session Laws Chapter 401.

### **Previous Studies**

Although there have been no recent studies directly related to the restructuring of county government, the ACIR has been involved in the study of the restructuring of local governments during previous interims. During the 1995-96 interim, the ACIR reviewed state law allowing the joint exercise of powers between or among political subdivisions. The ACIR also administered the local government efficiency planning grant program through which the ACIR provided grant funds to political subdivisions to study various aspects of consolidation and restructuring of local governments during the 1991-92, 1993-94, and 1995-96 interims. In addition, during the 1987-88 interim, the Legislative Council studied the feasibility and desirability of changes in the legal status of, and relationships existing among, political subdivisions and the effect of new legislation on county and city budgets.

### **Background**

North Dakota Century Code Title 11 contains the statutes relating to counties. Included within Title 11 are chapters relating to various types of county government, including the county consolidated office form of government, county managership, and home rule county government. Chapter 11-05 provides procedures for the consolidation of counties. Chapters 11-10.2 and 11-10.3, which were adopted in 1993 Session Laws Chapter 401, provide for county officer combination, separation, and redesignation and multisubdivision office combinations.

### **Tool Chest Legislation**

The 1993 Legislative Assembly adopted House Bill No. 1347 (Session Laws Chapter 401) which is often referred to as the "tool chest" legislation. The bill included what is now codified as NDCC Chapters 11-10.2 and 11-10.3.

Chapter 11-10.2 allows a county, without requiring the county to be a home rule county, to combine an elective county office with one or more functionally related elective or appointive county offices, separate an elective county office into two or more elective or appointive offices, or redesignate an elective county office as an appointive office or an appointive office as an elective office. Section 11-10.2-01 provides that the option to combine, separate, or designate county offices is in addition to, or in lieu of, other county structural options authorized under Title 11,

unless a specific mandate for combining or separating particular county offices is otherwise provided by law.

Chapter 11-10.3 allows a county to combine any county elective office with one or more elective offices of one or more other counties for the purpose of sharing that combined office for the performance of functions and the provision of services among those counties. Section 11-10.3-01 provides that a proposal for combining county elective offices may be accomplished by the boards of county commissioners of each effective county by entering a joint powers agreement or by initiative of the electors of each affected county petitioning to request the boards of county commissioners to submit to the electors the question of adopting such a plan. A joint powers agreement entered between counties for combining the functions of a county elective office may be referred to the electors of an affected county by a petition protesting the agreement signed by at least 10 percent of the total number of qualified electors of the county voting for Governor at the most recent gubernatorial election. If a petition is filed and the board of county commissioners does not terminate the agreement, the board must submit the question to a vote of the qualified electors of the county at the next regular election.

Section 11-10.3-03 provides that a proposal for combining appointive offices of two or more counties, appointive offices of a county and another political subdivision, or appointive offices of two or more political subdivisions which are not counties may be implemented through the execution of a joint powers agreement. The proposal to combine appointive offices is not subject to a referendum under Chapter 11-10.3. A proposal for combining both elective and appointive offices of two or more counties, between a county and another political subdivision, or between two or more political subdivisions which are not counties is subject to the referendum provision procedures under Chapter 11-10.3 only in the county or other political subdivision of the elective office.

North Dakota Century Code Section 40-01.1-02, which was also included in House Bill No. 1347, allows the governing body of a political subdivision to establish an advisory committee to study the existing form and powers of the political subdivision for comparison with other forms and powers available under laws of the state. The local advisory study committee may be established by a majority vote of the governing body or by a petition signed by 10 percent or more of the total number of qualified electors of the political subdivision voting for Governor at the most recent gubernatorial election. Section 40-01.1-02 also provides that an election on the question of establishing a five-member advisory study committee for a county or city must be held at

the next regular election in the county or city if five years have elapsed since the later of:

1. August 1, 1993;
2. The date of the most recent election held on the question of establishing an advisory study committee; or
3. The date of issue of a written report prepared for a comprehensive study and analysis of the cooperative and the restructuring options available to the county or city conducted by the governing body, an advisory study committee, a home rule charter commission, or through another study process for which a written report was prepared.

## **STUDY APPROACH**

With respect to the study referred to the ACIR by the Legislative Council, the ACIR may consider receiving reports from representatives of counties that have utilized the consolidation and redesignation provisions provided in Chapters 11-10.2 and 11-10.3. The ACIR may also seek information from representatives of counties regarding the types of technical assistance needed by counties and which are not currently being provided by the state or the North Dakota Association of Counties.